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Eighty-fifth session
(11-29 August 2014)

Eighty-sixth session
(27 April-15 May 2015)

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Contents

Chapter		Page
	Letter of transmittal	5
I.	Organizational and related matters	7
	A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination	7
	B. Sessions and agendas	7
	C. Membership	7
	D. Officers of the Committee	8
	E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the special procedures of the Human Rights Council and the regional human rights mechanisms	8
	F. Other matters	9
	G. Adoption of the report	9
II.	Prevention of racial discrimination, including early warning and urgent action procedures	9
	A. Decisions and statements	10
	B. Consideration of situations under the early warning and urgent action procedure	11
III.	Consideration of reports, comments and information submitted by States parties under article 9 of the Convention	12
IV.	Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention	12
V.	States parties the reports of which are seriously overdue	13
	A. Reports overdue by at least 10 years	13
	B. Reports overdue by at least five years	14
	C. Action taken by the Committee to ensure submission of reports by States parties	15
VI.	Consideration of communications under article 14 of the Convention	15
VII.	Follow-up to individual communications	17
VIII.	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention	21
IX.	Action taken by the General Assembly at its sixty-ninth session	21
X.	Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference	22

XI. Working methods of the Committee 22

XII. Treaty body strengthening process 23

Annexes

I. Status of the Convention 24

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (177) as at 15 May 2015 24

B. States parties that have made the declaration under article 14 (1), of the Convention (57) as at 15 May 2015 24

C. States parties that have accepted the amendments to article 8 (6), of the Convention adopted at the fourteenth meeting of States parties (46) as at 15 May 2015 25

II. Follow-up information provided in relation to cases in which the Committee adopted recommendations 26

Letter of transmittal

15 May 2015

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination.

The report contains information from the eighty-fifth and eighty-sixth sessions of the Committee, held from 11 to 29 August 2014 and 27 April to 15 May 2015, respectively.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 177 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During its eighty-fifth and eighty-sixth sessions, the Committee continued with a significant workload in terms of the examination of States parties' reports (see chap. III) in addition to other related activities. The Committee also examined the situations of several States parties under its early warning and urgent action procedures (see chap. II). Furthermore, the Committee examined information submitted by several States parties under its procedure for follow-up to the consideration of reports (see chap. IV).

As important as the Committee's contributions have been to date, there is obviously some room for improvement. At present, only 57 States parties have made the optional declaration recognizing the Committee's competence to receive communications under article 14 of the Convention and, as a consequence, the individual communications procedure is underutilized.

Furthermore, only 46 States parties have so far ratified the amendments to article 8 of the Convention adopted at the fourteenth meeting of States parties, despite repeated calls from the General Assembly to do so. These amendments provide, inter alia, for the financing of the Committee from the regular budget of the United Nations. The Committee appeals to States parties that have not yet done so to consider making the declaration under article 14 and ratifying the amendments to article 8 of the Convention.

The Committee remains committed to a continuous process of improvement of its working methods, with the aim of maximizing its effectiveness and adopting innovative approaches to combating contemporary forms of racial discrimination. The evolving practice and interpretation of the Convention by the Committee is reflected in its general recommendations, opinions on individual communications, decisions and concluding observations.

I have no doubt that the dedication and professionalism of the members of the Committee, as well as the pluralistic and multidisciplinary nature of their contributions, will ensure that the work of the Committee contributes significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(*Signed*) José Francisco **Calí Tzay**
Chair
Committee on the Elimination
of Racial Discrimination

His Excellency Mr. Ban Ki-moon
Secretary-General of the United Nations
New York

I. Organizational and related matters

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 15 May 2015, the closing date of the eighty-sixth session of the Committee on the Elimination of Racial Discrimination, there were 177 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the eighty-sixth session, 57 of the 177 parties to the Convention had made the declaration envisaged in article 14 (1) of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 46 States parties that have accepted the amendments to the Convention adopted at the fourteenth meeting of States parties, as at 15 May 2015.

B. Sessions and agendas

3. The Committee held two sessions during the period under review. The eighty-fifth session (2294th-2323rd meetings) and the eighty-sixth session (2324th-2351st meetings) were held at the United Nations Office at Geneva from 11 to 29 August 2014 and 27 April to 15 May 2015, respectively.

4. The provisional agendas of the eighty-fifth and eighty-sixth sessions, contained in documents CERD/C/85/1 and CERD/C/86/1, respectively, were adopted by the Committee without revision.

C. Membership

5. At the twenty-fifth meeting of States parties, held on 3 June 2013 in New York, States parties elected nine members of the Committee to replace those whose terms of office were due to expire on 19 January 2014, in accordance with article 8 (1)-(5) of the Convention. The list of members of the Committee for the period under review is as follows:

Name of member	*Nationality*	*Term expires on 19 January*
Nourredine Amir	Algeria	2018
Alexei S. Avtonomov	Russian Federation	2016
Marc Bossuyt	Belgium	2018

Name of member	*Nationality*	*Term expires on 19 January*
José Francisco Calí Tzay	Guatemala	2016
Anastasia Crickley	Ireland	2018
Fatimata-Binta Victoire Dah	Burkina Faso	2016
Ion Diaconu	Romania	2016
Afiwa-Kindéna Hohoueto	Togo	2018
Huang Yong'an	China	2016
Patricia Nozipho January-Bardill	South Africa	2016
Anwar Kemal	Pakistan	2018
Melhem Khalaf	Lebanon	2018
Gun Kut	Turkey	2018
Dilip Lahiri	India	2016
José A. Lindgren Alves	Brazil	2018
Pastor Elias Murillo Martínez	Colombia	2016
Carlos Manuel Vázquez	United States of America	2016
Yeung Kam John Yeung Sik Yuen	Mauritius	2018

D. Officers of the Committee

6. The Bureau of the Committee comprised the following Committee members during the period under review:

Chairperson:	José Francisco Calí Tzay (2014-2016)
Vice-Chairpersons:	Nourredine Amir (2014-2016) Alexei S. Avtonomov (2014-2016) Anastasia Crickley (2012-2016)
Rapporteur:	Dilip Lahiri (2014-2016)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the special procedures of the Human Rights Council and the regional human rights mechanisms

7. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization,[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice,

[1] See *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/87/18), chap. IX, sect. B.

the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

8. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations submitted to the International Labour Conference were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

9. UNHCR submits comments to the members of the Committee on the Elimination of Racial Discrimination on all States parties whose reports are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR.

10. UNHCR and ILO representatives attend the sessions of the Committee and brief Committee members on matters of concern.

F. Other matters

11. The Chief of the Petitions and Inquiries Section at the Human Rights Treaties Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR) addressed the Committee at its 2294th meeting (eighty-fifth session).

12. The Chief of the Anti-Racial Discrimination Section at the Research and Right to Development Division of OHCHR addressed the Committee at its 2324th meeting (eighty-sixth session).

G. Adoption of the report

13. At its 2351st meeting (eighty-sixth session), the Committee adopted its annual report to the General Assembly.

II. Prevention of racial discrimination, including early warning and urgent action procedures

14. The Committee's working group on early warning and urgent action, established at its sixty-fifth session in August 2004, is currently comprised of the following members of the Committee:

Coordinator:	Alexei S. Avtonomov
Members:	Anastasia Crickley
	Patricia Nozipho January-Bardill
	José A. Lindgren Alves
	Huang Yong'an

A. Decisions and statements

15. The following decision and statement were adopted by the Committee at its eighty-fifth and eighty-sixth sessions, respectively:

Decision 1 (85) on Iraq

The Committee on the Elimination of Racial Discrimination, meeting in Geneva at its eighty-fifth session, held from 11 to 29 August 2014,

Acting under its early warning and urgent action procedures and taking into account its declaration on the prevention of genocide (2005),

Alarmed by information and testimonies from various sources and having also considered the combined fifteenth to twenty-first periodic reports of Iraq,[2] a party to the International Convention on the Elimination of All Forms of Racial Discrimination,

Appalled by the massacres, atrocities and other human rights abuses against civilian populations, including on ethnic and ethno-religious grounds, committed by the terrorist armed group calling itself the "Islamic State",

Deeply concerned about the mass killings, the ethnic cleansing, the massive forced displacement of populations, the violence against women and children and the other crimes against humanity, which constitute blatant violations of the Convention and increase the risk of genocide,

Mindful of the need to encourage the ongoing humanitarian responses required from the international community to preserve life and the dignity of the populations affected,

Fully aware of the serious long-term consequences of the conflict in Iraq for peace and security in the Middle East and in the world:

1. *Requests* the Human Rights Council to convene a special session on the human rights situation in Iraq, with a view to considering the establishment of a commission of inquiry to examine the causes of the conflict, the origins and actions of the "Islamic State", and the forces and problems involved, and to present its findings and recommendations, including with regard to those responsible for crimes against humanity and the ways to prosecute and punish them;

2. *Urges* the Secretary-General to submit to the Security Council a suggestion to set up a United Nations peace force as a temporary emergency measure, in order to create a safe zone in the Plain of Nineveh, enabling the free return of the displaced persons and the protection of the communities traditionally living in the area.

Statement on current migrant crises

The Committee on the Elimination of Racial Discrimination, meeting in Geneva at its eighty-sixth session, held from 27 April to 15 May 2015,

Acting under its early warning and urgent action procedure,

Alarmed by the seriousness and magnitude of the recent humanitarian tragedies, particularly in the Mediterranean and Andaman seas, involving massive suffering and loss of life of migrants, most of whom were attempting to flee political and ethno-religious persecution and economic crises by maritime routes,

[2] CERD/C/IRQ/15-21.

Fully aware of the multifaceted and multidimensional nature of these crises, extending from human trafficking to migration and refugee policies at both State and regional levels,

Deeply concerned about developments associated with these complicated phenomena, such as an increase in hate speech and racist or xenophobic violence,

Considering that the victims of these tragedies constitute a group vulnerable to racial discrimination within the meaning of the Convention,

Mindful of the need to encourage the ongoing humanitarian responses required from the international community to preserve the lives and the dignity of the persons affected:

1. *Urgently calls* upon the States parties:

(*a*) To assume responsibility and to take concrete action to address effectively the root causes of the recent surge in migration waves in the aforementioned regions of the world;

(*b*) To correctly identify and address the human rights and humanitarian dimensions of the issue;

(*c*) To develop effective methods and provide resources to combat human trafficking;

(*d*) To review their migration, asylum and refugee policies so as to prevent the emergence of discriminatory practices while trying to solve the problem;

2. *Appeals* to the international intergovernmental and non-governmental organizations to redouble their efforts to actively develop means to contribute to the solution of the crises in line with relevant human rights instruments.

B. Consideration of situations under the early warning and urgent action procedure

16. During the reporting period, the Committee considered a number of situations under its early warning and urgent action procedure, including in particular, those described below.

17. Upon receiving information from non-governmental organizations, the Committee considered, at its eighty-sixth session, the situation of indigenous Shor people in connection with the alleged destruction of their village in the Myski municipal district, Kemerevo Oblast, in the Russian Federation, due to mining activities. The mining activities have allegedly had severe environmental impacts on the Shor settlements of Kazas and Kurya, and have damaged the mountain of Karagai-Nash, which is the main place of worship for the Shor community of Kazas. Information received alleges that, in 2005, the State party issued a mining license to a coal mining company for the "Beregovoi" mine without providing adequate information to the inhabitants of Kazas. The Committee expressed concern at allegations of the lack of consultation of the inhabitants of Kazas and the absence of a resettlement plan. In its concluding observations (CERD/C/RUS/CO/20-22), the Committee recommended that the State party ensure that indigenous communities are consulted effectively and meaningfully through their freely elected representative bodies for any decisions that may affect them and that adequate compensation is provided to communities that have been adversely affected by the activities of private companies. In a letter dated 15 May 2015, the Committee requested that the State party submit by 31 October 2015 information on all of the issues and concerns outlined in the letter, and on any action already taken to address them.

18. In the light of information received, the Committee considered, at its eighty-sixth session, the situation of Malayu Thais in Thailand, with regard to allegations that, over the past years, security officers have subjected Malayu Thais to harassment, searches, arrests and collection of DNA samples during military and police operations, allegedly for reasons relating to their ethnicity, pursuant to the special counter-insurgency legislation. DNA samples reportedly were forcibly collected from students of the Seletan Cultural Centre, without prior consultation or explanation, in April 2015, by the Royal Thai Army Special Task Force. In its concluding observations (CERD/C/THA/CO/1-3), the Committee recommended that the State party take concrete measures to eradicate the practice of identity checks and arrests based on racial profiling in the application of the special laws in the southern border provinces, review its special legislation, investigate all allegations of human rights violations and prosecute those found responsible. In a letter dated 15 May 2015, the Committee requested the State party to submit by 31 October 2015 information in relation to those allegations.

III. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

19. At its eighty-fifth session, the Committee adopted concluding observations on seven States parties: Cameroon (CERD/C/CMR/CO/19-21),[3] El Salvador (CERD/C/SVL/CO/16-17), Estonia (CERD/C/EST/CO/10-11), Iraq (CERD/C/IRQ/CO/15-21), Japan (CERD/C/JPN/CO/7-9), Peru (CERD/C/PER/CO/18-21), United States of America (CERD/C/USA/CO/7-9). At its eighty-sixth session, the Committee adopted concluding observations on six States parties: Bosnia and Herzegovina (CERD/C/BIH/CO/9-11), Denmark (CERD/C/DNK/CO/20-21), France (CERD/C/FRA/CO/20-21), Germany (CERD/C/DEU/CO/19-22), Guatemala (CERD/C/GTM/CO/14-15), Sudan (CERD/C/SDN/CO/12-16).

20. The concluding observations adopted by the Committee at those sessions are available from the OHCHR website (www.ohchr.org) and from the Official Document System of the United Nations (http://documents.un.org) under the symbols indicated above.

IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention

21. During the period under review, Mr. Kut served as coordinator for follow-up to the consideration of reports submitted by States parties.

22. Terms of reference for the work of the coordinator on follow-up[4] and guidelines on follow-up[5] to be sent to each State party together with the concluding observations of the Committee were adopted by the Committee at its sixty-sixth and sixty-eighth sessions, respectively.

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[3] Mr. Lindgren Alves expressed his disagreement to paragraph 6 of the concluding observations on Cameroon.

[4] For the terms of reference, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV.

[5] For the text of the guidelines, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 18* (A/61/18), annex VI.

23. At the 2323rd meeting (eighty-fifth session) and at the 2351st meeting (eighty-sixth session), Mr. Kut presented a report to the Committee on his activities as coordinator.

24. During the period under review, follow-up reports on the implementation of those recommendations regarding which the Committee had requested information were received from the following States parties: Albania (CERD/C/ALB/CO/5-8/Add.1), Belarus (CERD/C/BLR/CO/18-19/Add.1), Canada (CERD/C/CAN/CO/19-20/Add.1), Cyprus (CERD/C/CYP/CO/17-22/Add.1), Czech Republic (CERD/C/CZE/CO/8-9/Add.1), New Zealand (CERD/C/NZL/CO/18-20/Add.1), Portugal (CERD/C/PRT/CO/12-14/Add.1), Russian Federation (CERD/C/RUS/CO/20-22/Add.1), Slovakia (CERD/C/SVK/CO/9-10/Add.1), Sweden (CERD/C/SWE/CO/19-21/Add.1), Thailand (CERD/C/THA/CO/1-3/Add.1), the former Yugoslav Republic of Macedonia (CERD/C/MKD/CO/7/Add.1).

25. At its eighty-fifth and eighty-sixth sessions, the Committee considered the follow-up reports of Albania, Canada, Cyprus, the Czech Republic, Kyrgyzstan, Mexico, New Zealand, Portugal, the Russian Federation, Slovakia, Sweden and Thailand, and continued the constructive dialogue with those States parties by transmitting comments and requesting further information.

V. States parties the reports of which are seriously overdue

A. Reports overdue by at least 10 years

26. The following States parties are at least 10 years late in the submission of their reports:

Sierra Leone	Fourth periodic report overdue since 1976
Liberia	Initial report overdue since 1977
Gambia	Second periodic report overdue since 1982
Somalia	Fifth periodic report overdue since 1984
Papua New Guinea	Second periodic report overdue since 1985
Solomon Islands	Second periodic report overdue since 1985
Central African Republic	Eighth periodic report overdue since 1986
Afghanistan	Second periodic report overdue since 1986
Seychelles	Sixth periodic report overdue since 1989
Saint Lucia	Initial report overdue since 1991
Malawi	Initial report overdue since 1997
Swaziland	Fifteenth periodic report overdue since 1998
Burundi	Eleventh periodic report overdue since 1998
Gabon	Tenth periodic report overdue since 1999
Haiti	Fourteenth periodic report overdue since 2000
Guinea	Twelfth periodic report overdue since 2000
Syrian Arab Republic	Sixteenth periodic report overdue since 2000
Zimbabwe	Fifth periodic report overdue since 2000

Lesotho	Fifteenth periodic report overdue since 2000
Tonga	Fifteenth periodic report overdue since 2001
Bangladesh	Twelfth periodic report overdue since 2002
Eritrea	Initial report overdue since 2002
Belize	Initial report overdue since 2002
Benin	Initial report overdue since 2002
Equatorial Guinea	Initial report overdue since 2003
San Marino	Initial report overdue since 2003
Sri Lanka	Tenth and eleventh reports overdue since 2003
Hungary	Eighteenth periodic report overdue since 2004
Timor-Leste	Initial report overdue since 2004
Trinidad and Tobago	Fifteenth and sixteenth periodic reports overdue since 2004

B. Reports overdue by at least five years

27. The following States parties are at least five years late in the submission of their reports:

Mali	Fifteenth and sixteenth periodic reports overdue since 2005
Comoros	Initial report overdue since 2005
Uganda	Eleventh to thirteenth periodic reports overdue since 2005
Ghana	Eighteenth and nineteenth periodic reports overdue since 2006
Libya	Eighteenth and nineteenth periodic reports overdue since 2006
Côte d'Ivoire	Fifteenth to seventeenth periodic reports overdue since 2006
Bahamas	Fifteenth and sixteenth periodic reports overdue since 2006
Saudi Arabia	Fourth and fifth periodic reports overdue since 2006
Cabo Verde	Thirteenth and fourteenth periodic reports overdue since 2006
Saint Vincent and the Grenadines	Eleventh to thirteenth periodic reports overdue since 2006
Lebanon	Eighteenth periodic report overdue since 2006
Bahrain	Eighth and ninth periodic reports overdue since 2007
Latvia	Sixth to eighth periodic reports overdue since 2007
Andorra	Initial report overdue since 2007
Saint Kitts and Nevis	Initial report overdue since 2007
United Republic of Tanzania	Seventeenth and eighteenth periodic reports overdue since 2007
Barbados	Seventeenth and eighteenth periodic reports overdue since 2007
Brazil	Eighteenth to twentieth periodic reports overdue since 2008
Nigeria	Nineteenth to twentieth periodic reports overdue since 2008

Mauritania	Eighth to tenth periodic reports overdue since 2008
Nepal	Seventeenth to nineteenth periodic reports overdue since 2008
Madagascar	Nineteenth and twentieth periodic reports overdue since 2008
Guyana	Fifteenth and sixteenth periodic reports overdue since 2008
Zambia	Seventeenth to nineteenth periodic reports overdue since 2009
Botswana	Seventeenth and eighteenth periodic reports overdue since 2009
Antigua and Barbuda	Tenth and eleventh periodic reports overdue since 2009
India	Twentieth and twenty-first periodic reports overdue since 2010

C. Action taken by the Committee to ensure submission of reports by States parties

28. Following its decision to adopt the simplified reporting procedure (see para. 57), the Committee sent a note verbale on 20 January 2015 to those States parties whose periodic reports were overdue by more than 10 years, offering them the option to report under the new procedure. As at 15 May 2015, one State party has responded positively.

VI. Consideration of communications under article 14 of the Convention

29. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of the 57 States parties that have recognized the competence of the Committee to consider such communications can be found in annex I, section C; information on the declarations can also be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/.

30. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

31. At the time of adoption of the present report the Committee had registered, since 1984, 56 complaints concerning 12 States parties. Of those, 1 complaint was discontinued and 18 were declared inadmissible. The Committee adopted final decisions on the merits on 32 complaints and found violations of the Convention in 14 of them. Five complaints were pending consideration.

32. At its eighty-fifth session, the Committee considered communication No. 49/2011 (*L.A. et al. v. the Slovak Republic*).[6] The communication was submitted by L.A., T.K., and L.P., all Slovak nationals of Roma origin, who claimed to be victims of a violation by Slovakia of articles 5 and 6, read in conjunction with article 2, of the Convention.

[6] Available from the Official Document System of the United Nations under the symbol CERD/C/85/D/49/2011.

33. The Committee noted the petitioners' argument that the State party had not fulfilled its obligation to guarantee their right of access to any place or service intended for the use of the general public because it did not provide effective protection and remedy through its national courts when their right, guaranteed by the domestic legislation, had been violated. The Committee considered that it was not its task to review the interpretation of national law made by national courts unless the decisions were manifestly arbitrary or otherwise amounted to a denial of justice. The Committee considered that the petitioners' claims had been examined in accordance with the Anti-Discrimination Act that specifically regulated and penalized acts of racial or ethnic discrimination. It noted that all the judicial decisions taken by the domestic courts, which had concluded that an act of racial discrimination had occurred and had awarded the petitioners a remedy, had been reasoned and based on the Act. The Committee concluded that the facts as submitted did not disclose a violation of article 2 combined with article 5 of the Convention.

34. The Committee also assessed whether the remedy awarded by the State party — moral satisfaction in the form of individual letters of apologies — was in accordance with the right to an effective remedy provided for under article 6 of the Convention. In this regard, the Committee recalled the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which provide that "reparation should be proportional to the gravity of the violations and the harm suffered" and list financial compensation as one form of remedy and reparation, along with restitution, satisfaction and guarantee of non-repetition. The Committee recalled that its role was to assess whether the remedy could be seen as an effective remedy in accordance with international principles and to determine that it was not manifestly arbitrary or did not otherwise amount to a denial of justice. In the light of the information before it, the Committee concluded that the remedy provided was not contrary to those principles.

35. The Committee also considered that the five-year judicial procedure to obtain a final decision on the alleged violation was not unreasonably prolonged given that during the period, five judicial decisions had been taken by different jurisdictions on the case itself, most of them in response to the appeals made by the petitioners. Therefore, the Committee did not conclude to a violation of article 6 of the Convention.

36. At its eighty-sixth session, the Committee considered communication No. 51/2012 (L.G. v. the Republic of Korea).[7] The petitioner, a national of New Zealand, claimed to be the victim of a violation by the Republic of Korea of her rights under articles 2 (1) (c) and (d), 5 and 6 of the Convention.

37. The Committee noted that the petitioner had brought a prima facie case of racial discrimination to the attention of the competent authorities of the State party, claiming that the policy of mandatory testing for HIV/AIDS and illegal drugs she had been subjected to was based exclusively on negative stereotypes and stigmatization of native English-speaking teachers, which are grounded on the teachers' ethnic origin. The Committee observed that the National Human Rights Commission of Korea had declined to investigate the petitioner's complaint and that no assessment of the compliance of the contested testing policy with the Convention had been made by the Korean Commercial Arbitration Board or any other authority of the State party. In the light of the State party's failure to carry out an assessment in the petitioner's case in order to determine whether criteria involving racial discrimination within the meaning of article 1 of the Convention were at the origin of the policy of mandatory testing, the

[7] Available from the Official Document System of the United Nations under the symbol CERD/C/86/D/51/2012.

Committee concluded that the petitioner's rights under articles 2 (c) and (d) and 6 of the Convention had been violated.

38. The Committee noted the petitioner's claim that, as a result of her refusal to undergo the contested mandatory testing for a second time, she had been denied the opportunity to continue to work at the school, in violation of article 5 (e) (i) of the Convention. It observed that foreign teachers of English who are ethnically Korean, and Korean teachers, are exempted from such testing, and that the testing was therefore not decided on the basis of a distinction between citizens and non-citizens but rather on the basis of ethnic origin. The Committee also observed that mandatory HIV/AIDS testing for employment purposes, as well as for entry, stay and residence purposes, was considered to be in contradiction of international standards, as such measures appeared to be ineffective for public health purposes, discriminatory, and harmful to the enjoyment of fundamental rights. The Committee further noted that the State party did not provide any reasons to justify the mandatory testing policy. It also noted that during the Korean Commercial Arbitration Board's arbitration proceedings, some officials had confirmed that tests for HIV/AIDS and illegal drugs use were viewed as a means of checking the values and morality of foreign teachers of English.

39. In that context, the Committee recalled its general recommendation No. 30 on discrimination against non-citizens, in which it recommended that States parties take resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of race, colour, descent, and national or ethnic origin, members of "non-citizen" population groups, especially by politicians. It was not contested by the State party that, in fine, the only reason why the petitioner had not had her working contract renewed was that she had refused to undergo the retesting for HIV/AIDS and illegal drugs use. The Committee considered that the mandatory testing policy limited to foreign teachers of English who were not ethnically Koreans did not appear to be justified on public health grounds or any other ground, and was a breach of the right to work without distinction as to race, colour, or national or ethnic origin, in violation of the State party's obligation to guarantee equality in respect of the right to work as enshrined in article 5 (e) (i) of the Convention.

40. In the light of its findings, the Committee did not examine separately the petitioner's allegations under article 5 (e) (iv) of the Convention.

VII. Follow-up to individual communications

41. At its sixty-seventh session,[8] following a discussion based on a background paper prepared by the secretariat, the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

42. At the same session, the Committee decided to add two paragraphs to its rules of procedure setting out details of the procedure.[9] On 6 March 2006, at its sixty-eighth session, Linos Alexander Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded in 2008 by Régis de Gouttes with effect from the seventy-second session. Ion Diaconu succeeded Mr. de Gouttes in 2014 with effect from the eighty-fourth session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual reports to the General

[8] See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV, sect. I.

[9] Ibid., annex IV, sect. II.

Assembly, reflect the cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

43. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies that do not address the Committee's recommendations or relate only to certain aspects of the recommendations are generally considered unsatisfactory.

44. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 32 complaints and found violations of the Convention in 14 cases. In 10 cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

Follow-up information received to date for all cases of violations of the Convention in which the Committee provided suggestions or recommendations

State party and number of cases with violation	*Communication number and author*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory or incomplete response*	*No follow-up response received*	*Follow-up dialogue still ongoing*
Denmark (6)	10/1997, Ziad Ben Ahmed Habassi	X (A/61/18)	X			
	16/1999, Kashif Ahmad	X (A/61/18)	X			
	34/2004, Hassan Gelle	X (A/62/18)	X			
	40/2007, Murat Er	X (A/63/18)		X incomplete		
	43/2008, Saada Mohamad Adan	X (A/66/18) 6 December 2010 28 June 2011	X partly satisfactory	X partly unsatisfactory		
	46/2009, Mahali Dawas and Yousef Shava	X (A/69/18) 18 June 2012 29 August 2012 20 December 2013 19 December 2014	X partly satisfactory			X
Germany (1)	48/2010, TBB-Turkish Union Berlin/Brandenburg	X (A/70/18) 1 July 2013 29 August 2013 17 September 2014 3 February 2015				X
Netherlands (2)	1/1984, A. Yilmaz-Dogan				X	
	4/1991, L.K.				X	
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
Republic of Korea (1)	51/2012, L.G.	Due August 2015				X
Serbia and Montenegro (1)	29/2003, Dragan Durmic	X (A/62/18)				X

State party and number of cases with violation	*Communication number and author*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory or incomplete response*	*No follow-up response received*	*Follow-up dialogue still ongoing*
Slovakia (2)	13/1998, Anna Koptova	X (A/61/18 A/62/18)				X
	31/2003, L.R. et al.	X (A/61/18 A/62/18)				X

VIII. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

45. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, as transmitted to it by the competent bodies of the United Nations, and to submit to the General Assembly its expressions of opinion and recommendations in this regard.

46. Accordingly, and at the request of the Committee, Mr. Khalaf examined the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2014[10] and copies of the working papers on the 16 Territories prepared by the Secretariat for the Special Committee and the Trusteeship Council, listed in document CERD/C/86/3, and presented his report to the Committee at its eighty-sixth session, on 15 May 2015. The Committee noted, as it has done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contained only scant information directly relating to the principles and objectives of the Convention.

47. The Committee further noted that there was significant ethnic diversity in a number of the Non-Self-Governing Territories, warranting a close watch on incidents or trends that reflected racial discrimination and violation of rights guaranteed in the Convention. The Committee therefore stressed that greater efforts should be made to raise awareness concerning the principles and objectives of the Convention in Non-Self-Governing Territories. The Committee also stressed the need for States parties administering Non-Self-Governing Territories to include details on the implementation of the Convention in those territories in their periodic reports to the Committee.

IX. Action taken by the General Assembly at its sixty-ninth session

48. At its eighty-sixth session, the Committee considered action taken by the General Assembly at its sixty-ninth session regarding the Committee. The Committee had before it General Assembly resolution 69/161, in which the Assembly, inter alia, reiterated, in the run-up to the fiftieth anniversary of the adoption of the Convention, its call for the universal ratification and effective implementation of the Convention by all States parties to eliminate all forms of racial discrimination, and invited the Chair of the Committee to present an oral report on the work of the Committee and to engage in an interactive dialogue with the Assembly at its seventy-first session under the item entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance".

[10] *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 23* (A/69/23).

X. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference

49. The Committee considered the question of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference at its eighty-fifth and eighty-sixth sessions.

50. Mr. Murillo Martinez participated in the sixteenth session of the Working Group of Experts on People of African Descent.

51. Mr. Kemal and Mr. Vázquez participated in the sixth session of the Ad Hoc Committee on the Elaboration of Complementary Standards.

XI. Working methods of the Committee

52. The working methods of the Committee are based on its rules of procedure, adopted in accordance with article 10 of the International Convention on the Elimination of All Forms of Racial Discrimination, as amended,[11] and the Committee's established practice, as recorded in its relevant working papers and guidelines.[12]

53. At its seventy-sixth session, the Committee discussed its working methods and the need to improve its dialogue with States parties. The Committee decided that, instead of sending a list of questions before the session, the country rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. Such a list of themes does not require written replies.

54. At its seventy-seventh session, on 3 August 2010, the Committee held an informal meeting with representatives of non-governmental organizations to discuss ways and means of strengthening cooperation. The Committee decided to hold informal meetings with non-governmental organizations at the beginning of each week of its sessions when States parties' reports are being discussed.

55. At its eighty-first session, the Committee initiated the practice of highlighting the focus of the recommendations by using headings in its concluding observations. At its eighty-second session, the Committee further discussed its working methods and, more specifically, issues related to the modalities of the constructive dialogue held with the States parties when considering their reports. The Committee decided to allow 30 minutes for the opening statement of the respective heads of delegation.

56. At its eighty-fifth session, in follow-up to General Assembly resolution 68/268 and the recommendations made by the chairs of the human rights treaty bodies at their twenty-sixth meeting, held in June 2014, the Committee decided to adopt the simplified reporting procedure and to start its implementation gradually, by offering it

[11] Compilation of rules of procedure adopted by human rights treaty bodies (HRI/GEN/3/Rev.3).

[12] This includes in particular the overview of the methods of work of the Committee (*Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), chap. IX), the working paper on working methods (*Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 18* (A/58/18), annex IV), the terms of reference for the work of the coordinator on follow-up to the Committee's observations and recommendations (*Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV), and the guidelines for the Committee's early warning and urgent action procedure (*Official Records of the General Assembly, Sixty-second Session, Supplement No. 18* (A/62/18), annex III).

to the States parties whose periodic reports are overdue by more than 5 years and to prioritize those States parties whose periodic reports are overdue by more than 10 years. It also decided to adopt the framework for the concluding observations as recommended by the chairs, and to establish the position of a rapporteur on reprisals. The Committee decided to designate English, French and Spanish as its three official working languages, and Russian as a fourth official language on an exceptional basis.

XII. Treaty body strengthening process

57. At its eighty-first session, the Committee welcomed the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies (A/66/860), published in June 2012, and expressed appreciation for the efforts of the High Commissioner in that regard. The Committee indicated that the report identified a comprehensive range of recommendations aimed at strengthening the treaty body system, based on a thorough three-year-long consultation process. The Committee believes that efforts to strengthen the treaty body system, including through adequate resourcing, are necessary for the ongoing support of the system, to build on its past achievements and to ensure that the rights enshrined in the treaties are enjoyed globally. In this regard, the Committee adopted a statement.[13]

58. Also at its eighty-first session, the Committee discussed the guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines) and adopted a decision in this regard.

59. At its eighty-fourth session, the Committee welcomed the adoption of General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, and congratulated the High Commissioner and the Director of the Human Rights Treaties Division for their efforts in ensuring a successful outcome for the process. The Committee decided to devote appropriate time to a detailed discussion of the resolution, including its implication for its working methods, at its eighty-fifth session in August 2014 (see para. 57).

[13] "Statement of CERD on treaty bodies strengthening", available at www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx.

Annex I

Status of the Convention

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (177) as at 15 May 2015[a]

Afghanistan, Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cabo Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe, Holy See, State of Palestine.

B. States parties that have made the declaration under article 14 (1) of the Convention (57) as at 15 May 2015

Algeria, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Kazakhstan, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Montenegro, Morocco, Netherlands, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, San Marino, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay and Venezuela (Bolivarian Republic of).

[a] The following States have signed but not ratified the Convention: Bhutan, Nauru and Sao Tome and Principe.

C. States parties that have accepted the amendments to article 8 (6) of the Convention adopted at the fourteenth meeting of States parties (46) as at 15 May 2015

Australia, Bahamas, Bahrain, Belize, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Guinea, Iceland, Iran (Islamic Republic of), Iraq, Ireland, Jamaica, Liberia, Liechtenstein, Luxembourg, Mexico, Morocco, Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba), New Zealand, Norway, Poland, Portugal, Republic of Korea, Saudi Arabia, Seychelles, Slovakia, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe, Holy See.

Annex II

Follow-up information provided in relation to cases in which the Committee adopted recommendations

The present annex contains a compilation of information received on follow-up to individual communications since the previous annual report,[a] as well as any decisions made by the Committee on the nature of those responses.

Denmark

Mahli Dawas and Yousef Shava, 46/2009

Opinion adopted on 6 March 2012

Issues and violations found: Failure to effectively protect the petitioners from an alleged act of racial discrimination, and to carry out an effective investigation, which consequently deprived the petitioners of their right to effective protection and remedies against the reported act of racial discrimination: violation by the State party of articles 2 (1) (d) and 6 of the Convention.

Remedy recommended: The Committee recommended that the State party grant the petitioners adequate compensation for the material and moral injury suffered.

Initial or periodic report/s examined since the adoption of the opinion: The State party's combined twentieth and twenty-first reports were examined at the Committee's eighty-sixth session in May 2015.

Previous follow-up information: A/69/18.

State party's reply: On 19 December 2014, the State party provided supplementary information in the light of the Committee's position not to reconsider its opinion. With regard to the Committee's recommendation on granting compensation, the State party reiterates that the Committee's opinion is based on number of misunderstandings regarding the facts of the case and the legal provisions applicable to the case. The State party will therefore not apply the Committee's recommendation to pay compensation. On the Committee's recommendation to review policy and procedures, it states that the case concerned a violent assault committed in 2004. Since then, there has been immense development in the procedures of the Danish authorities for prosecuting criminal offences that may be potentially racially motivated. Moreover, the State party has continuously made and supported several initiatives that contribute to shedding light on and preventing hate crimes in Denmark. As regards legislation and practice, on 16 March 2014, the parliament adopted an amendment to section 81 of the Criminal Code, inserting as aggravating circumstances acts based on the ethnic origin, religious faith or sexuality of others or similar issues.

In order to ensure proper and uniform investigation and law enforcement, the Director of Public Prosecutions recently issued guidelines on the application of section 81 (1) (vi) of the Criminal Code in cases regarding offences based on, inter alia, ethnic origin. The purpose is to ensure that the police and prosecutors are aware of any circumstances in criminal proceedings that may indicate that the offence was based on such motives. When such circumstances exist, the police must ensure that this aspect of the case is clarified to the extent necessary during the investigation and the

[a] *Official Records of the General Assembly, Sixty-ninth session, Supplement No. 18* (A/69/18).

prosecutor must plan the production of evidence so as to provide the requisite proof of the aggravating circumstances in question.

In 2009, the Copenhagen police issued an information leaflet and guidelines on the handling and investigation of cases involving hate crimes. The purpose was to ensure that the police ask the alleged victim(s) and witnesses about the possible motive of a hate crime. On the other hand, section 96 of the Administration of Justice Act expresses the principle of objectiveness according to which the public prosecutor may prosecute a person if he or she assesses on the basis of the evidence of the case, that the prosecution will in fact lead to a conviction. This principle is designed to protect innocent persons from prosecution. Consequently, in some cases, there might be a suspicion of a racially motivated act but the evidence is not sufficient to prosecute. Furthermore, in a number of cases, the offender cannot be identified and the motive of the crime is never established.

The State party gives a number of other examples of initiatives taken against hate crimes since 2004, such as campaigns and conferences; for instance, the Danish Ministry of Justice supported the Stop Hate Crimes campaign in 2012 and 2013. From 2012 to 2014, it also supported a campaign in which football players served as ambassadors for tolerance and anti-racism. The Government has also set up an anti-discrimination unit, which has been given the tasks of mapping the extent of discrimination in Denmark to strengthen preventive measures and planning campaigns and strengthening collaboration with players.

The State party has also supported the publication of studies on hate crimes in Denmark, and has launched a mapping exercise of hate crimes in Denmark, the outcome of which is expected by mid-2015.

The Danish Security and Intelligence Service maps the extent and nature of hate crimes in an annual report on criminal offences with a potentially extremist motive. The most recent report was published on 6 September 2013. The Service also launched a strategic development project in 2010 to further improve measures against hate crimes. Campaigns and training activities have been launched on the basis of the 2013 report.

The basic education imparted by the Police College has been revised and the issues of racism, intolerance and the relationship with minorities play a central role in the curriculum for 2014.

The Danish Institute for International Studies is developing educational material for elementary schools to increase awareness of all forms of intolerance, including anti-Semitism. From 2012 to 2013, the Government of the State party supported an interreligious dialogue in which representatives of Jewish, Muslim and Christian religious communities visited schools and met with children.

Proposed further action or Committee's decision: The Committee considers the State party's response to be partially satisfactory only and decides to close the follow-up procedure on this basis.

Germany

Turkish Union in Berlin/Brandenburg (TBB), 48/2010

Opinion adopted on 26 February 2013

Issues and violations found: Failure to effectively protect the petitioner from an alleged act of racial discrimination and alleged propaganda based on ideas of racial superiority, and to carry out an effective investigation, which consequently deprived

the petitioner of its right to effective protection and remedies against the reported act of racial discrimination and propaganda on ideas of racial superiority: violation by the State party of articles 2 (1) (d), 4 and 6 of the Convention.

Remedy recommended: The Committee recommended that the State party review its policy and procedures concerning prosecution in cases of alleged racial discrimination consisting of the dissemination of ideas of superiority over other ethnic groups and of the incitement to discrimination on such grounds, in the light of its obligations under article 4 of the Convention. The State party was requested to give wide publicity to the Committee's opinion, including among prosecutors and judicial bodies.

Initial or periodic report/s examined since the adoption of the opinion: The State party's combined tenth and eleventh reports were examined by the Committee at its eighty-sixth session in May 2015.

Previous follow-up information: A/69/18.

Petitioner's further comments: On 24 April 2014, the petitioner replied that the publication of the opinion on the website of the Federal Ministry of Justice did not sufficiently fulfil the Committee's request to give wide publicity. The petitioner tried to find the opinion on the website and the obstacles encountered imply that wide publicity has not been given to date. The petitioner adds that the publication of the opinion in the *Human Rights Law Journal*, a legal professional journal, is not satisfactory since the opinion should be published independent of any third party's own initiative. The journal has a relatively low circulation and limited readership. The petitioner also considers the publication on the website of the German Institute for Human Rights to be unsatisfactory since it contains no translation into German.

With regard to the second part of the Committee's recommendation, the petitioner wishes to inform the Committee about the current practice of some prosecutors in Berlin, who consciously ignore the opinion of the Committee. The petitioner attaches to its comments a statement made by the Public Prosecutor's Office in Berlin regarding a case similar to the one submitted by the petitioner, where it is stated that the Office is not interested in the opinion of the Committee and does not see the Committee as any kind of important authority (Berlin Public Prosecutor's Office, dated 12 December 2013: investigation proceedings conducted under file No. 231/Js 1560/13).

Further reply from the State party: On 17 September 2014, the State party replied that after receiving the allegation raised by the petitioner's counsel in her comments dated 24 April 2014, the Federal Government contacted the Land of Berlin's Senate Administration for Justice and Consumer Protection and requested that the matter be investigated. Within the scope of its responsibility for administrative and professional supervision, the Senate Administration then asked the Public Prosecutor General and Chief Senior Public Prosecutor in Berlin for a report. They both informed the Senate Administration that they had been unaware of the matter until receiving the request for the report. The aforementioned decision did indeed contain the quoted statement, and the public prosecutor responsible for making it was identified. He was immediately summoned to a meeting with the Chief Senior Public Prosecutor and was told in clear terms that his statements amounted to misconduct of an unacceptable nature. As a result of this meeting, the public prosecutor issued an official written declaration in which he expressly distanced himself from and apologized for the statements he had made at the time.

The Chief Senior Public Prosecutor in Berlin highly regrets the wording used and also offers his apologies. He points out that degrading or offensive references to the United Nations are utterly contrary to his own views and those of the Berlin Public Prosecution Office.

Both the Public Prosecutor General in Berlin and the Senate Administration for Justice and Consumer Protection expressed their agreement with this assessment of the matter. Furthermore, the Senate Administration asked the Chief Senior Public Prosecutor to convey this assessment to the law firm, to which the public prosecutor's statements had been addressed.

The public prosecutor concerned was transferred to another department of the Berlin Public Prosecution Office. His misconduct has thus been appropriately addressed.

The Federal Government also strongly regrets the underlying failure to comprehend the importance of the International Convention on the Elimination of All Forms of Racial Discrimination and its treaty-monitoring body, a failure that was made apparent by the conduct of the public prosecutor concerned. The Convention has the equivalent status in Germany as federal law and is therefore binding for all public prosecution offices. While deeply regretting the incident, the State party nonetheless considers it to be an isolated case; the State party acted promptly once the incident was brought to its attention.

On 3 February 2015, the State party added that the Committee's opinion has had an impact on the national debate in Germany with regard to racist statements. In order to preserve a climate of tolerance with regard to public debate, it is essential to allow for divergent interests to manifest, on the one hand, the freedom of expression and, on the other, the right to be protected against offensive statements.

With regard to the use of criminal proceedings in the framework of public debates, the State party has the obligation to protect a democratic culture of debate while protecting potential victims. Given the central role of freedom of expression, the Federal Constitutional Court has already developed a significant body of jurisprudence according to which laws limiting freedom of expression should also be limited so as to protect fundamental rights. The Court possesses some flexibility, in accordance with the law, as to how to interpret statements made in this regard.

The Berlin Public Prosecutor's Office has used the above-mentioned jurisprudence and the constitutive elements of article 130, paragraph 1, of the Criminal Code with regard to freedom of expression to proceed with cases brought to its attention prior to the Committee's opinion. The question of whether the statements made by Mr. Sarrazin were of such nature that they would disturb public peace has not been a decisive element of the decision of the Office. Indeed, the latter contested the mere existence of the elements constituting the offence in the first place. There was therefore no need to determine whether those facts would, in addition, disturb public peace. Because of such reasoning, the public prosecutor could not revise otherwise his previous decision and for the same reason, the Office will not adopt a different reasoning regarding the same types of facts in the future.

The State party emphasizes that it is proactively looking at the issue of problematic racist statements. It is conscious of the limits to be respected in public debate and that to protect such limits, criminal proceedings may be initiated. However, to combat racism and discrimination in a sustainable manner, one has to have a global approach. In addition to criminal sanctions, and especially for facts that do not amount to a criminal offence, particular attention should be devoted to debates and activities within the society. It is in this framework that the State party organized, in December 2014, a symposium on how to approach racial prejudices and discriminatory ideologies in the political public debate, during which both the Federal Minister of Justice and Consumer Protection and the Federal Minister of the Interior sent strong messages against all forms of racism and xenophobia. The recently established interministerial working group aims to enhance and concentrate on the prevention of extremism at the federal level and to further improve the strategy against intolerance

and racism. In addition, the State party has recently engaged in a series of penal reforms aimed at combating racism more effectively through criminal proceedings. For instance, it plans to modify the division of competence between the Länder and the Federal Government for criminal offences of a racist or xenophobic character. It also aims to include clearly in the Criminal Code racist, xenophobic and other contemptuous motives as aggravating circumstances for the penalty imposed (art. 46, para. 2, of the Criminal Code).

Finally, the directives for the police and the Public Prosecutor's Office on criminal proceedings and in relation to administrative fines stipulate that racist, xenophobic and other contemptuous motives have to be explicitly taken into account. This applies both to investigations in general and to criminal proceedings that are triggered in the public interest. The State party is confident that the above-mentioned measures will improve national legislation in the spirit of the Committee's opinion.

Proposed further action or Committee's decision: The dialogue is ongoing.

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